

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

FILED

MAY 02 2013

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

DEAN C. WHITE,

Plaintiff - Appellant,

v.

MICHAEL J. ASTRUE, Commissioner,
Social Security Administration,

Defendant - Appellee.

No. 11-17306

D.C. No. 3:10-cv-02124-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Argued and Submitted April 16, 2013
San Francisco, California

Before: SCHROEDER, THOMAS, and SILVERMAN, Circuit Judges.

Dean White appeals the district court's grant of summary judgment in favor of the Commissioner. We have jurisdiction to consider the due process claim and

* This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

review the administrative decision for substantial evidence. *Udd v. Massanari*, 245 F.3d 1096, 1099-1100 (9th Cir. 2001). We affirm.

Substantial evidence supports the administrative law judge's finding that Social Security Ruling 91-5p does not apply because White was represented by a non-attorney when he applied for benefits and sought reconsideration of the denial of benefits in 1990 and 1991. White's request for reconsideration designated Carol Nuss, a paralegal and friend, in writing as his non-attorney representative. It was signed by both Nuss and White and filed with the Social Security office. This written designation substantially complied with 20 C.F.R. § 416.1507. Because at least one of the reasons provided by the administrative law judge for exercising his discretion to deny the motion to reopen is supported by substantial evidence, White's due process claim fails.

AFFIRMED.